

AMENDED IN SENATE APRIL 17, 2007

AMENDED IN SENATE APRIL 10, 2007

**SENATE BILL**

**No. 223**

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**Introduced by Senator Machado**

February 13, 2007

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An act to amend Section 11323 of the Business and Professions Code, and to add Article 7 (commencing with Section 1090.5) to Chapter 1 of Title 4 of Part 4 of Division 2 of the Civil Code, relating to real estate appraisals, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 223, as amended, Machado. Real estate appraisals.

(1) ~~Existing law, the~~ *The* Real Estate Appraisers' Licensing and Certification Law, which is part of the Real Estate Law, provides for the licensing and certification of real estate appraisers. ~~The~~ *That* law prohibits a licensed appraiser from engaging in any appraisal activity in connection with the purchase, sale, or transfer of real property if his or her compensation is affected by the sales commission generated by the transaction for which the appraisal was made. Existing law makes a knowing and willful violation of the Real Estate Law a misdemeanor.

This bill would prohibit a licensed appraiser from engaging in any appraisal activity in connection with the purchase, sale, transfer, financing, or development of real property if his or her compensation is dependent on or affected by the value conclusion generated by the appraisal. By broadening the definition of a crime, this bill would impose a state-mandated local program.

(2) Existing law regulates the transfer of real property and the activities of real estate brokers and mortgage lenders.

This bill would prohibit anyone with an interest in a real estate transaction involving an appraisal from improperly influencing, as specified, the reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. The bill would provide, if a person is licensed by a state licensing law, that a violation of these provisions shall be deemed a violation of that state licensing law.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11323 of the Business and Professions  
2 Code is amended to read:

3 11323. No licensee shall engage in any appraisal activity in  
4 connection with the purchase, sale, transfer, financing, or  
5 development of real property if his or her compensation is  
6 dependent on or affected by the value conclusion generated by the  
7 appraisal.

8 SEC. 2. Article 7 (commencing with Section 1090.5) is added  
9 to Chapter 1 of Title 4 of Part 4 of Division 2 of the Civil Code,  
10 to read:

11  
12 Article 7. Unlawful Influence of Appraisers

13  
14 1090.5. (a) No person with an interest in a real estate  
15 transaction involving an appraisal shall improperly influence or  
16 attempt to improperly influence, through coercion, extortion,  
17 bribery, or threat, the development, reporting, result, or review of  
18 a real estate appraisal sought in connection with a mortgage loan.

19 (b) Subdivision (a) does not prohibit a person with an interest  
20 in a real estate transaction from asking an appraiser to do any of  
21 the following:

22 (1) Consider additional, appropriate property information.

1 (2) Provide further detail, substantiation, or explanation for the  
2 appraiser's value conclusion.

3 (3) Correct errors in the appraisal report.

4 (c) If a person who violates this section is licensed under any  
5 state licensing law, a violation of this section shall be deemed a  
6 violation of that state licensing law.

7 SEC. 3. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.

16 SEC. 4. *This act is an urgency statute necessary for the*  
17 *immediate preservation of the public peace, health, or safety within*  
18 *the meaning of Article IV of the Constitution and shall go into*  
19 *immediate effect. The facts constituting the necessity are:*

20 *In order to take immediate steps to bring credibility to mortgage*  
21 *lending in California, and to protect consumers and other*  
22 *participants in mortgage transactions from fraudulent and deceitful*  
23 *practices, it is necessary that this act take effect immediately.*